

EDMUND G. BROWN JR.
Attorney General of the State of California
DANE R. GILLETTE
Chief Assistant Attorney General
GERALD A. ENGLER
Senior Assistant Attorney General
GREGORY A. OTT
Deputy Attorney General
SARA TURNER
Deputy Attorney General
State Bar No. 158096
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-5712
Fax: (415) 703-1234
Email: sara.turner@doj.ca.gov
Attorneys for Respondent

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

BEASLEY WILLS,

Petitioner,

v.

D.K. SISTO, Warden,

Respondent.

C 07-06003 TEH (PR)

**ANSWER TO ORDER TO SHOW
CAUSE**

Respondent provides this answer to the Order to Show Cause why the petition for writ of habeas corpus should not be granted.

**I.
CUSTODY**

Petitioner is lawfully in the custody of the Warden of California State Prison, Solano, pursuant to a valid judgment of conviction in the Superior Court of the State of California in and for the County of Alameda, case number 149784. On October 13, 2005, the trial court sentenced petitioner to thirteen years in prison.

///

II.**GENERAL AND SPECIFIC DENIALS**

Respondent denies that the state court's ruling was based on an unreasonable determination of fact or was contrary to or involved an unreasonable application of clearly established United States Supreme Court law. Respondent specifically denies that petitioner was denied due process under the Fourteenth Amendment of the United States Constitution when the trial excluded the testimony of an expert witness regarding factors affecting eyewitness testimony; specifically denies that petitioner was prejudiced because the trial court admitted opinion testimony regarding "the propensity of drug users to commit robberies;" and specifically denies that reversal is required due to "cumulative errors."

III.**PROCEDURAL ISSUES**

The claims raised in the petition are exhausted. The petition is timely within the meaning of 28 U.S.C. § 2244(d).

IV.**LODGED DOCUMENTS**

Respondent has lodged concurrently with this answer the following exhibits: (1) Clerk's Transcript (1 volume); (2) Reporter's Transcript (4 volumes); (3) Appellant's Opening Brief; (4) Respondent's Brief; (5) Appellant's Reply Brief; (6) Petition for Review, including Exhibit A, Opinion by California Court of Appeal; (7) California Supreme Court Order denying review.

V.**INCORPORATION BY REFERENCE**

Respondent hereby incorporates by reference the accompanying memorandum of points and authorities in support of this answer.

///

///

///

///

VI.

CONCLUSION

Respondent respectfully requests that the petition for writ of habeas corpus be denied.

Dated: June 26, 2008

Respectfully submitted,

EDMUND G. BROWN JR.
Attorney General of the State of California

DANE R. GILLETTE
Chief Assistant Attorney General

GERALD A. ENGLER
Senior Assistant Attorney General

GREGORY A. OTT
Deputy Attorney General

/s/ SARA TURNER
Deputy Attorney General
Attorneys for Respondent

20118668.wpd
SF2008401153

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Beasley Wills v. D. K. Sisto, Warden**

No.: **C 07-06003 TEH (PR)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On June 26, 2008, I served the attached **ANSWER TO ORDER TO SHOW CAUSE; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF ANSWER TO ORDER TO SHOW CAUSE; NOTICE OF LODGED EXHIBITS** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

Beasley Wills
#V-30091
T.C.C.F. MA 08 L
415 U.S. Hwy. 49 North
Tutwiler, MS 38963

Beasley Wills
#V-30091
California State Prison
2100 Peabody Road
P. O. Box 4000
Vacaville, CA 95696-4000

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on June 26, 2008, at San Francisco, California.

Nelly Guerrero
Declarant

/s/ Nelly Guerrero
Signature